

Customer No. 26308

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Benway  
Serial No.: 10/816,458  
Filed: 1 April 2004  
For: Hearing Protection Device

Group Art Unit: 2837  
Examiner: Luks, Jeremy Austin

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT, PETITION AND FEE FOR EXTENSION OF TIME TO MAINTAIN  
PARENT CASE WHICH IS TO BE ABANDONED WHEN FILING NEW  
APPLICATION CLAIMING ITS BENEFIT**

**NOTE:** Where an extension of time is sought solely for the purpose of filing a continuation application under 35 USC 120 and where the prior application is to be abandoned in favor of the continuing application, the filing of a response as required by 37 CFR 1.111 or 1.113 is considered to be an unnecessary expenditure of resources by the applicant and, in these situations, the PTO will accept the filing of a continuing application as a response under 37 CFR 1.136. Notice of May 13, 1983 (1031 OG 11).

**NOTE:** The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the papers constituting the filing of the continuation application. Notice of November 5, 1985 (1060 O.G. 27).

1. The amendment in this case is a bona fide attempt by applicant to respond and to advance this application to final action and comprises a separately filed:

(check (a), (b) or (c) as applicable)

- (a) ☐ Continuation application
- (b) ☒ Continuation-in-part application
- (c) ☐ Divisional application (WHERE PARENT CASE IS TO BE ABANDONED)

A copy of this amendment and petition is being filed with the papers constituting the filing of the separately filed application.

**NOTE:** EACH PAPER OR FEE REFERRED TO AS ENCLOSED HEREIN HAS THE NUMBER OF THE "EXPRESS MAIL LABEL PLACED THEREON PRIOR TO MAILING. 37 CFR 1.16(B).

**CERTIFICATION UNDER 37 CFR 1.10**

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date 5 December 2006 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV 813043602 addressed as follows: Mail Stop AF, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Linda S. Wenzel  
(Type or Print Name of person mailing paper)  
  
(Signature of person mailing paper)

**NOTE:** An express mail certificate under 37 CFR 1.10 and the "WARNING" below is shown on the presumption that this paper will be mailed with the new application

**WARNING:** Certificate of mailing (first class) or facsimile transmission procedures of 37 CFR 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

12/07/2006 DEHMANU1 00000046 10816458

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(Amendment, Petition and Fee for Extension of Time to Maintain Parent Case Which is to be Abandoned When Filing New Application Claiming its Benefit [4-5])

2. This is a petition under 37 CFR 1.136(a) for an extension of time to respond to

(check and complete (d) or (e) as applicable)

(d) ☒ the Office Action mailed 27 November 2006

(e) ☐ (OTHER) \_\_\_\_\_

3. Please abandon this application conditioned upon the granting of the petition and the granting of a filing date to the continuing application so as to make the continuing application co-pending with this application. (NOTICE OF MAY 13, 1983, 1031 O.G. 11-12 ).

4. Applicant is

☒ a small entity

☐ other than a small entity

5. Extension requested

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

(complete (a) or (b) as applicable)

(a) ☒ Applicant petitions for an extension of time under 37 CFR 1.136(a) (fees: 37 CFR 1.17(a)(1) - (a)(5)) for the total number of months checked below:

	<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
<input checked="" type="checkbox"/>	one month	\$ 120.00	\$ 60.00
<input type="checkbox"/>	two months	\$ 450.00	\$225.00
<input type="checkbox"/>	three months	\$1,020.00	\$510.00
<input type="checkbox"/>	four months	\$1,590.00	\$795.00

Fee \$ 60.00

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request\$\_\_\_\_\_

OR

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

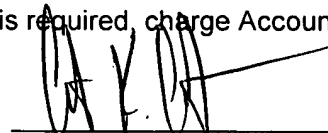
6. Fee payment

- ☒ Attached is a check in the sum of \$ 60.00 .  
☐ Charge Account No. 06-2360 the sum of \$ \_\_\_\_\_.

7. Fee deficiency

*NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the NOTICE OF APRIL 7, 1986, (1065 O.G. 31-33).*

- ☒ If any additional extension and/or fee is required, charge Account No. 06-2360.

  
\_\_\_\_\_  
(Signature of Attorney)

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